

The issues before the Appeals Board are the same as those considered by the Special Administrative Law Judge and include:

- (1) The nature and extent of claimant's disability; and
- (2) Whether any award should be subject to a credit pursuant to K.S.A. 44-510a (Ensley).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire record, the Appeals Board makes the following findings of facts and conclusions of law:

The Award of the Special Administrative Law Judge sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The Appeals Board finds the findings and conclusions enumerated in the Award of the Special Administrative Law Judge to be accurate and appropriate and adopts same as its own findings as if specifically set forth herein. The Appeals Board adopts the analysis of the Administrative Law Judge regarding the nature and extent of claimant's disability. Specifically, the Appeals Board agrees that claimant has not sustained his burden of proof that his right shoulder injury resulted in a permanent impairment of function. Rather, the Appeals Board finds from the evidence that claimant suffered a temporary aggravation of a preexisting condition which resulted in his requiring surgery, but that his condition is now no greater nor worse than it was immediately prior to his injury of February 12, 1991.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Special Administrative Law Judge William F. Morrissey dated June 23, 1995 should be, and the same is hereby, affirmed in all respects. The orders contained in the Award of the Special Administrative Law Judge are hereby adopted by the Appeals Board as its own.

IT IS SO ORDERED.

Dated this ____ day of November 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Kirk W. Lowry, Topeka, KS
Robert North, Topeka, KS
Derek Shafer, Topeka, KS
William F. Morrissey, Special Administrative Law Judge
Philip S. Harness, Director **ENDFIELD**